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Cancelled*

co-methacrylate), 1:2, 135,000 MW, poly(methylacrylate-co-methyl methacrylate-co-trimethacrylic acid), 7:3:1, 400,000 MW, or Hydroxypropylmethylcellulosephthalate type M, and mixtures thereof.

46. The pharmaceutical formulation according to claim 36 wherein the first coated portion comprises 30-35% of the formulation, the second coated portion comprises 30 to 35% of the formulation and the third coated portion comprises 30 to 35% of the formulation.

REMARKS

Reconsideration and removal of the grounds for rejection are respectfully requested. Claims 23-34 were rejected, claims 23-34 were cancelled and new claims 35-46 substituted therefore.

Favorable consideration and entry of the amendment is respectfully requested as placing the application in condition for allowance, and/or reducing the issues for appeal.

Specifically, the examiner objected to the claims as being indefinite for narrative language. The examiner also correctly recognized the inventive formulation as containing, by way of example, coated granules A, B and C, the coating for A being different from the coatings for B and C.

Claim 35 was drafted to address these specific issues, identifying the formulation as comprising a plurality of active ingredient portions, each portion having a different coating, the coatings differing in a range of pH solubility from about 6 to about 7. The claim language is believed to properly convey the inventive formulation and entry is respectfully requested to remove at least the Section 112 rejections, and also to advance the prosecution of the application.

Claims 23-34 were rejected under 35 U.S.C. §112 as being indefinite and it is believed that the amendment renders the rejection moot.

Claims 23, 24, 28 and 30-34, replaced by claims 35, 36, 40 and 42-46, were rejected as being anticipated by Yajima et al, U.S. Patent No. 5,972,373.

As claim 35 now clarifies that the formulation must contain a plurality of coated active ingredient portions, each coating soluble at different pH conditions, it is believed that each and every element of claim 35 is not found in Yajima et al, and claim 35 and the claims dependant therefrom are not anticipated thereby.

Claims 23, 27, 29 and 30-34 were rejected as being anticipated by Kjorn et al, U.S. Patent No. 4,713, 248. Kjorn fails to disclose a formulation having different coated active ingredient portions, each portion having a coating dissolvable at a different pH. Consequently, Kjorn fails to anticipate the applicant's invention.

Claims 23, 26, 28, 31 and 32 were rejected as being anticipated by Shah et al. Shah describes a core having two layers thereover. Shah fails to disclose a formulation containing different coated active ingredient portions, each portion having a coating dissolvable at a different pH, to provide multiphasic release. Shah thus fails to anticipate the applicant's invention.

Claim 33 was rejected as being obvious over Shah et al. New claim 45 replaces claim 33, and this claim depends upon and contains all the limitations of claim 35 therein. As Shah fails to teach or suggest a formulation containing different coated active ingredient portions, each portion having a coating dissolvable at a different pH, claim 33 is not believed to be rendered obvious by

Shah.

Based on the above amendments and remarks, reconsideration and allowance of the application is respectfully requested. However should the examiner believe that direct contact with the applicant's attorney would advance the prosecution of the application, the examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,



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